

Court No. - 19

Case :- WRIT - A No. - 9762 of 2023

Petitioner :- Shesh Nath Shukla

Respondent :- State Of U.P. Thru. Prin. Secy. Dairy Development Deptt.
Lko. And 2 Others

Counsel for Petitioner :- Pradeep Kumar Tripathi

Counsel for Respondent :- C.S.C.,Shanker Lal

Hon'ble Jaspreet Singh,J.

1. Heard learned counsel for the petitioner. Notice on behalf of the respondent no.1 has been accepted by the office of the Chief Standing Counsel. Shri Lalit Shukla, learned counsel has put in appearance and filed his Vakalatnama on behalf of the respondents no.2 and 3 which is taken on record.

2. The contention of learned counsel for the petitioner is that despite the petitioner having retired on attaining the age of superannuation on 30.04.2023, the leave encashment has still not been paid on the pretext of pendency of audit objections.

3. Reliance has been placed on various orders passed by this Court to contend that mere pendency of audit objection cannot be considered to be a valid ground for withholding of leave encashment.

4. There is no statutory provision shown at the bar entitling respondents to withhold the leave encashment benefit.

5. Considering the fact that there is no statutory powers vested with the respondents to withhold the payment of leave encashment benefits, the action of the respondents in withholding the benefits is clearly arbitrary and contrary to mandate of Article 300A of the Constitution of India.

6. The writ petition is **allowed**.

7. Respondents are directed to pay the leave encashment benefits to the petitioner alongwith interest at the rate of 7% per annum from the date of retirement till actual payment/realisation within three months.

Order Date :- 19.12.2023

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